

Message Text

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ACTION L-02

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C O N F I D E N T I A L GENEVA 1397

E.O. 11652: GDS

TAGS: ICRC, PARM, PFOR

SUBJECT: LAWS OF WAR CONFERENCE - LIBERATION MOVEMENT PROBLEM

1. AS DEPARTMENT WILL RECALL, ONE OF THE FEW ARTICLES ADOPTED BY THE CONFERENCE COMMITTEES AT FIRST SESSION IN 1974 WAS ARTICLE 1, WHICH STATED THAT, INCLUDED AMONG THE INTERNATIONAL ARMED CONFLICTS TO WHICH THE NEW PROTOCOL WOULD APPLY, WERE WARS OF NATIONAL LIBERATION. THE U.S., AND MOST WESTERN COUNTRIES, OPPOSED THAT PROVISION ON LIBERATION MOVEMENTS, BUT IT WAS ADOPTED BY AN OVERWHELMING MAJORITY.

2. DURING AUTUMN 1974 CONSULTATIONS WITH THE OTHER WESTERN COUNTRIES, WE FOUND A NEARLY COMPLETE AGREEMENT THAT IT WAS USELESS TO FIGHT ARTICLE 1 FURTHER IN THE CONFERENCE AND THAT WE SHOULD SIMPLY TRY TO SEE THAT THE REMAINDER OF THE PROTOCOL WAS DEVELOPED ALONG LINES WHICH WOULD BE IN OUR INTEREST. WE MADE CLEAR TO THE OTHER WESTERN COUNTRIES THAT WE COULD GIVE NO, REPEAT, NO ASSURANCE THAT THE USG COULD IN THE END BECOME A PARTY TO ANY PROTOCOL CONTAINING THAT ARTICLE 1. IN THE CONFERENCE, WE HAVE QUIETLY BEEN USING THAT POINT AS LEVERAGE ON THE SUBSTANCE, ARGUING THAT, UNLESS WE GET REALLY GOOD ARTICLES ON PROTECTING POWERS, MISSING AND DEAD, PROTECTION OF MEDICAL AIRCRAFT, ETC., THERE

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WOULD BE NO HOPE OF OUR SIGNING THE PROTOCOL. THIS

HAS CLEARLY HAD SOME BENEFICIAL EFFECT.

3. A DIFFICULT PROBLEM NOW ARISES BECAUSE IMPLEMENTATION OF ARTICLE 1 REQUIRES ADDING TO DRAFT ARTICLE 84 A MECHANISM WHEREBY A LIBERATION MOVEMENT CAN DECLARE ITS ACCEPTANCE OF THE OBLIGATIONS OF THE PROTOCOL AND THE GENEVA CONVENTIONS. WE HAVE WORKED SUCCESSFULLY WITH EGYPTIAN DEL. AND OTHERS, TO KEEP THIS TO THE MINIMUM NECESSARY AND AVOID PREJUDICIAL LANGUAGE WHICH MIGHT APPEAR TO ENHANCE STATUS OF THE MOVEMENTS. OF COURSE, AS PRACTICAL MATTER, WE KNOW IT UNLIKELY TO BE EFFECTIVE, FOR NO GOVERNMENT WILL EVER ACKNOWLEDGE THAT REBELS AGAINST IT ARE LIBERATION MOVEMENT OF TYPE COVERED BY ARTICLE 1. NEVERTHELESS, ISRAELI DEL. HAS TODAY ASKED US NOT, REPEAT, NOT TO COSPONSOR THIS AMENDMENT TO ARTICLE 84 ON THE GROUND THIS MIGHT BE MISUNDERSTOOD AS US ENDORSEMENT OF LIBERATION WAR CONCEPT CONTAINED IN ARTICLE 1.

4. USDEL HAS CONSISTENTLY MADE ITS POSITION KNOWN THAT WE THINK AMENDED ARTICLE 1 IS TOTALLY WRONG AND THAT IT SERIOUSLY PREJUDICES CHANCES OF ULTIMATE US ACCEPTANCE OF THE NEW PROTOCOL, AND WE INTEND REITERATE THIS IN STRONGEST TERMS IN CONNECTION WITH AMENDMENT OF ARTICLE 84. THEREFORE, WE THINK PROBLEMS THAT WORRY ISRAELIS CAN BE HANDLED. NEVERTHELESS, OUR NORMAL INSTINCT WOULD BE TO ACCEDE TO ISRAELI REQUEST THAT WE NOT COSPONSOR SINCE THEY HAVE MADE IT SO STRONGLY. HOWEVER, GIVEN THE HISTORY OF THIS ARTICLE AND CLOSE AND COOPERATIVE RELATION WE HAVE MAINTAINED WITH EGYPTIAN DEL. IN WORKING OUT THE AMENDMENT AND IN TURNING ASIDE PRESSURES FROM RADICALS TO POLITICIZE IT, WE HESITATE TO PULL BACK AT LAST MINUTE AND LEAVE OURSELVES AND EGYPTIANS OPEN TO CHARGES OF BAD FAITH.

5. ALDRICH HAD DISCUSSED THIS PROBLEM IN GENERAL TERMS WITH ISRAELI DELEGATION HEAD ROSENNE DURING HIS WASHINGTON VISIT IN DECEMBER AND IN JANUARY WITH SHALEV. ALDRICH HAS EXPLAINED TO ISRAELI DEL. HERE
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(ROSENNE UNFORTUNATELY BEING IN JERUSALEM FOR CONSULTATIONS) REASONS WHY US COSPONSORSHIP OF THIS AMENDMENT, WHICH WILL BE ACCOMPANIED BY FIRM STATEMENT ON LIBERATION WARS, AS DESCRIBED ABOVE, WOULD BE HARMLESS, AND WHY LAST-MINUTE WITHDRAWAL FROM COSPONSORSHIP WOULD LEAD TO BITTERNESS AND ALLEGATIONS OF BAD FAITH.

6. AMENDMENT WILL BE TABLED MARCH 4. ISRAELIS MAY

APPROACH DEPARTMENT ON THIS PROBLEM. AS NOTED ABOVE,
USDEL BELIEVES BETTER COURSE AT THIS POINT IS TO HONOR OUR
COMMITMENT TO EGYPTIANS TO COSPONSOR AMENDMENT TO ARTICLE 84
AND MAKE STRONG STATEMENT ON UNDERLYING QUESTION OF WARS OF
NATIONAL LIBERATION. WE SHALL DO SO UNLESS INSTRUCTED TO THE
CONTRARY. DALE

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